IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

WP(C).No. 26572 of 2006(L)
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PETITIONER:
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T.C. RANGANATHAN, THOTTUKADAVIL,
WARD 7, KADAKKARAPPALLY PANCHAYAT,
CHERTHALA.

BY ADV. SMT.C.G.BINDU
SMT.C.G.AJITHA

RESPONDENTS:
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1. KADAKKARAPPALLY GRAMA PANCHAYATH
KADAKKARAPPALLY P.O., CHERTHALA,
REPRESENTED BY ITS SECRETARY.

2. ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
DISTRICT OFFICE, THONDANKULANGARA,
ALAPPUZHA.

3. INSPECTOR OF FACTORIES & BOILERS,
ALAPPUZHA, PIN-688 001.

4. K.V. CHANDRAN, S/O. VASU,
SUBHALAYAM, KADAKKARAPPALLY P.O.

5. SUBHA, W/O. K.V. CHANDRAN,
SUBHALAYAM, KADAKKARAPPALLY P.O.

6. RENJIT, SUBHALAYAM,
KADAKKARAPPALLY P.O.

R2 BY ADV. SRI.M.K.CHANDRA MOHANDAS,SC,POLL.C.BOAR
R4 TO R6 BY ADV. SRI.N.N.SUGUNAPALAN (SR.)
SRI.S.SUJIN
SRI.M.S.UNNIKRISHNAN

R3 BY GOVT. PLEADER SRI. K.J. MOHAMMED ANZAR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**K.M.JOSEPH, J.**

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WP.(C) No. 26572 of 2006

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Dated this the 6th day of August, 2007

**JUDGMENT**

Petitioner has approached this court feeling aggrieved by the running of an unit engaged in the manufacture of coir mats. It is the case of the petitioner that it is functioning without the consent of the second respondent, the Pollution Control Board. It is the further case of the petitioner that though the Pollution Control Board imposed certain conditions vide Ext.P10, they are not being complied with. By Ext.P10 the Pollution Control Board has directed respondent No.4 to restrict the operation of the unit between 9 a.m and 6 p.m only. The second direction was to provide enclosure (wall) to the weaving section. It was further directed that the fourth respondent will apply and obtain consent under the Air (Prevention & Control of Pollution) Act, 1981. Petitioner also relies on Ext.P12 issued by the Panchayat.

2. I heard learned counsel for the parties including Sri.N.N.Sugunapalan, learned Senior counsel appearing for respondents 4 to 6. He submits that it is only a cottage industry and it

is being run by husband and wife. Further it is submitted that the directions in Ext.P10 in so far as they prohibit running of the factory between 9 a.m and 6 p.m and the provision of the wall in weaving section have been complied with. As far as the direction to apply and obtain consent, his contention is that being a cottage industry, they are not bound to obtain consent under the said Act. It is stated that they have raised their objection before the Pollution Control Board in this regard. Of course learned counsel for the second respondent would reiterate that consent is necessary. Learned counsel for the Panchayat would point that it will verify as to whether respondents 4 to 6 have complied with the first two directions in Ext.P10.

In such circumstances the writ petition is disposed of as follows:

There will be a direction to the first and second respondents to inspect the factory of respondents 4 to 6 and ascertain whether directions 1 and 2 have been complied with. In case it is found that respondents 4 to 6 are not complying with the direction not to run the factory during night hours, action in accordance with law will be taken to enforce the said conditions and if the respondents are recalcitrant in

disobeying the conditions, action can also include closing down of the unit. Likewise if the wall has not been put up, it is open to respondents 1 to 3 to enforce the said condition and enforce the law in this regard including the closing down of the unit. In regard to the question as to whether consent is required, it appears that the petitioner has raised objection and a decision is not yet taken in the matter. There will be a further direction to the second respondent to hear the petitioner and respondents 4 to 6 or their representatives and take a decision within a period of three weeks from the date of receipt of a copy of this judgment as to whether consent under the Air (Prevention & Control of Pollution) Act is mandatory. Respondents 1 and 2 will carry out the inspection within one week from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

(K.M. JOSEPH, JUDGE)

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